

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Application No. 10/050,604  
Attorney Docket No. Q68036

**REMARKS**

Reconsideration and allowance of this application are respectfully requested. Claim 1 has been amended to include the elements of dependent claim 2. Claim 2 has subsequently been cancelled. Claims 1 and 3-8 are now pending in the application. The rejections are respectfully submitted to be obviated in view of the amendments and remarks presented herein.

As a preliminary matter, Applicant brings to attention that Examiner has not indicated on the Office Action Summary PTOL-326 form mailed October 6, 2004 whether All certified copies of the priority documents have been received. Applicant respectfully requests acknowledgment of receipt of all certified copies in the next office communication.

**Rejection Under 35 U.S.C. § 103(a) - Kikuchi et al. in view of Summers et al.**

Claims 1, 3-6 and 8 have been rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Kikuchi et al. (U.S. Patent Application Publication Number US 2001/0021162; hereinafter “Kikuchi”) in view of Summers et al. (U.S. Patent Number 5,889,750; “Summers”). The rejection is respectfully traversed.

Applicant’s claimed invention relates to an aberration correcting apparatus, correcting aberration in an optical path of an optical system which irradiates a recording medium with a light beam and guides the light beam reflected from the recording medium. The apparatus includes a first aberration correction element, a driver, a second aberration correction element, a phase adjuster, a light receiver and a controller. The phase adjuster corrects a residual aberration after correction by the first aberration correction element.

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Turning to the cited art, Kikuchi discloses an optical pickup as shown in Figure 2. However, there is no mention in Kikuchi of a phase adjuster correcting a residual aberration after correction by a first aberration correction element. In addition, Examiner has admitted that Kikuchi fails to disclose a first aberration correction element moveable along the optical axis of the light beam, and a driver for positioning the first aberration correction element along the optical axis. In Applicant's aberration correcting apparatus, the phase adjuster "corrects a residual aberration after correction by said first aberration correction element," as recited in amended claim 1.

Summers does not remedy the deficiencies of Kikuchi. Although Summers discloses sizing and collimator lenses (130 and 136), the positions of which an operator may control, there is no mention of a "phase adjuster correct[ing] a residual aberration after correction by said first aberration correction element," as recited in amended claim 1. At least by virtue of the aforementioned differences, the invention defined by Applicant's claim 1 is patentable over Kikuchi in view of Summers. Applicant's claims 3-6 and 8 are dependent claims including all of the limitations of independent claim 1, which, as established above, distinguishes over Kikuchi in view of Summers. Therefore, claims 3-6 and 8 are distinguished over Kikuchi in view of Summers for at least the aforementioned reasons as well as for their additionally recited features. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a) are respectfully requested.

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**Rejection Under 35 U.S.C. § 103(a) - Kikuchi et al. in view of Summers et al. and further in view of Asada et al.**

Claim 2 has been rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Kikuchi in view of Summers and further in view of Asada et al. (U.S. Patent Number 6,496,453; “Asada”). Asada was filed in the United States on March 26, 2001. The priority date of the present application (i.e., the filing date of JP 2001-30106) is February 6, 2001, which is before Asada’s March 26, 2001 filing date. Asada cannot be considered prior art under any subsection of 35 U.S.C. § 102 / §103 because a verified English language translation of the Japanese priority document is submitted concurrently. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a) are respectfully requested.

**Rejection Under 35 U.S.C. § 103(a) - Kikuchi et al. in view of Summers et al. and further in view of Kim et al.**

Claim 7 has been rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Kikuchi in view of Summers and further in view of Kim et al. (U.S. Patent Number 6,034,935; “Kim”). The rejection is respectfully traversed.

Kikuchi in view of Summers fail to teach a “phase adjuster correct[ing] a residual aberration after correction by said first aberration correction element,” as recited in amended claim 1. Kim does not remedy the deficiencies of Kikuchi in view of Summers. Kim discloses an optical pick-up apparatus as shown in Figures 3 and 4, however, there is also no teaching or suggesting in Kim of a phase adjuster correcting a residual aberration after correction by the first aberration correction element. Claim 7 is a dependent claim including all of the elements of

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independent claim 1. At least by virtue of the aforementioned differences, the invention defined by Applicant's claim 7 is patentable over Kikuchi in view of Summers and further in view of Kim. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a) are respectfully requested.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


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**23373**

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